REMARKS

The Office Action of November 29, 2006 has been carefully studied. The only issue relates to a rejection under 35 U.S.C. 112, second paragraph.

In particular, claim 1 is rejected because of the terminal clause "with deviations for each of said components being plus or minus 10%" on the grounds that this constitutes a broad range or limitation together with a narrow range of limitation which falls within the broad range or limitation in the same claim. To overcome this rejection, it is seen that the terminal clause is now cancelled and instead the broad language of the terminal clause is incorporated into the various amounts of substituents in the standardized extract so that 20-35% of Emblicanin A is changed to 10-45%, 10-20% of Emblicanin B is changed to above 0 to about 30%, 15-30% of Pendunculagin is changed to 2-40% and 3-12% of Punigloconin is changed to above 0 to about 22%.

It is respectfully submitted that one of ordinary skill in the art reading Applicants' specification would appreciate that these newly set forth ranges are tantamount to the original ranges with the terminal clause which sets forth a minus or plus 10% deviation.

It is also well established that a new matter is not introduced when one of ordinary skill in the art, reading the application would have concluded that the Applicant was reasonably in possession of the newly introduced subject matter at the time the invention was filed, Vas-Cath, Inc. v. Mahurkar, 935 Fed. 2nd 1555, 19 USPQ 2nd 1111 (Fed. Cir. 1991). In the instant case, it is clear beyond question that Applicants provide a disclosure wherein the two components are present in concentrations above 0 %. Consequently, under the provisions of MPEP § 2163, there is support in the original specification for the instant claims.

It is also noted that new claims are introduced, as follows:

Claim 31 is dependent on claim 1 but it is directed to the incorporation of values of plus or minus 5%, the most preferred deviation as set forth in Table 2 on page 4 of Applicants' specification.

Claim 32 is dependent on claim 31, but omits the expression "above 0" for the amount of Punigloconin and instead recites a minimum value of about 3% with the upper limit of about 17%. The lower limit is derived from original claim 1.

Finally, new claim 33 is identical to claim 1 (amended) as set forth in the last filed response, but it omits the terminal clause: "with deviations for each of said components being plus or minus 10%".

In view of the presently submitted amendment, it is clear that the claims are no longer rejectable under 35 U.S.C. 112 second paragraph. Also, there is sufficient written description for one of ordinary skill in the art to have concluded that the claimed subject matter was in possession of Applicant at the time the invention was filed.

In view of the above remarks, favorable reconsideration and allowance is courteously solicited. If there are any residual issues which can be expeditiously resolved by a telephone conference, the Examiner is courteously invited to telephone Counsel at the number indicated below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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